

### **Remarks/Arguments**

The applicant notes that the claims were amended in an amendment received by the Office on 08/03/2004, which amendment also added claims 42-47. It is this version of the claims that the present amendment addresses. Even though the Office action that was mailed on 09/27/2004, refers back to the paper filed on 11/17/2003, it is apparent that the claims 42-47 were examined.

Claim 1 has been amended as suggested by the Examiner and further amended so as to make it less abstract. Hopefully, this will assist the Examiner in understanding the differences between the applicant's invention and the prior art. The applicant has also added claims that contain specific limitations derived from the specification, as suggested by the Examiner. While such a change not required for reasons of patentability, the term "symbol headings" has been substituted for the term "prefix characteristics" in many claims.

Applicant respectfully notes that the derivation of the availability of 7.92 million 7-digit telephone numbers in each area code is well known in the art to be as follows: Having seven digits in a telephone number supports 9,999,999 different telephone numbers (if all seven digits could be used). From this number must be deducted 1,999,999 numbers beginning with 1 for long distance and 80,000 numbers reserved for other purposes. This leaves 7.92 million seven

digit telephone numbers available for assignment to customers in each area code region. This fact is mentioned in paragraph [0016] of the amended specification.

The clauses in claim 1 cited by the Examiner are “thereby” clauses and are therefore not “limitations.” Numerous court decisions have determined that a “thereby” or “whereby” clause is “given no weight [in a patentability determination] if it expresses only a necessary result of the previously described structure or method” (Landis on Mechanics of Patent Claim Drafting, Fourth Edition, Section 32, 1999). The “thereby” clauses add nothing to the patentability or substance of the claim, and are common in patent claims as allowed by *In re Venezia*, 189 U.S.P.Q. (BNA) 149 (C.C.P.A., 1976).

Applicant notes that some embodiments of his invention call for making exclusively available to each telecommunications system customer the following optional (voluntary) “symbol headings” or “codes”: # (suggested for a facsimile device or a second voice device), \* (suggested for a first cellular device), and 2\*, 3\*, 4\*, 5\*, 6\*, 7\*, 8\*, and 9\* (suggested for other cellular devices). This means that for each area code, 7.92 million land lines or other devices, 7.92 million fax devices or other devices, and  $9 \times 7.92 \text{ million} = 71.28 \text{ million}$  cellular devices or other devices can be reached, for a total of 87.12 million communications devices of any type being reachable within each area code, instead of just 7.92 million communications devices as is the case currently. This increases the number of assignable combinations by a factor of  $11 = 87.12/7.92$ . This novel aspect of the applicant’s invention is recited in amended claim 1 and in new claim 49.

Claims 1, 10, 15, 35-37 and 42-44 stand rejected under U.S.C. 103(a) as being unpatentable over the Brankley et al. reference in combination with the Examiner's official notice that "it would have been obvious to one of ordinary skill in the art at the time the invention was made that there are certain predefined assignable combinations of numbers [that] can be assigned within each area code. . . ." Applicant respectfully disagrees with these rejections.

The Brankley et al. reference teaches a system wherein "a prefix is added to identify the type of communication" (col. 3, lines 63-64). Applicant respectfully points out that his invention relies on a different principle in that it requires "connecting said call to the specific communications device that is the destination for said call without the need for the telecommunications system to determine the type of communication device" (amended claim 1). Applicants' amended claim 1 also provides that "one of a plurality of unique sets of symbol headings is normally, but not always, associated with one type of communications device" and allows a customer to "optionally use a combination" whereas the Brankley et al. reference requires that "the prefix controls the ultimate connection which in the case of a fax message would be to the facsimile machine" (col. 4, lines 16-18). Thus, very different structures, principles of operation and processes are involved when the applicant's invention is compared with the cited references.

The Brankley et al. reference teaches a system in which a fax machine is assigned a one of the common 7-digit telephone numbers currently available in each area code, which he calls a “directory number” (for example, “215-443-3355” at col. 6, line 13) to which a fax type call to a directory number (for example, “215-443-1234” at col. 6, line 19-22) to a “Pennsylvania customer” is directed. In the Brinkley et al. reference, the directory number 214-443-3355 is a “distinct facsimile number” (col. 6, line 22) that uses up one of the 7.92 million common 7-digit telephone numbers that are available within that area code (see explanation above). That does not occur with the applicant’s invention because the embodiment of the applicant’s invention recited in claims 1-3 essentially relies on 8-part telephone numbers, with seven of the parts being the 7 digits described above and with the eighth part being a \* symbol or a # symbol. The embodiment of the applicant’s invention recited in claim 4 relies on 9-part telephone numbers, with the ninth part being a digit (0-9). So, the Brankley et al. reference continues to rely on the “basic North American numbering plan” (col. 3, line 60), which assigns a 7-digit telephone number to each communications device (e.g., voice landline, fax machine, etc.), and teaches away from the applicant’s invention which does not assign a common 7-digit telephone number to each communications device. (In this way, the applicant’s invention multiplies the number of assignable numbers within each area code over that taught by the Brankley et al. reference and the other prior art as was noted above, and is described in the new claims).

MPEP 2144.03 requires that “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being

well-known.” That is not the case here because the “certain predefined assignable combinations” referred to by the Examiner do not exist in the prior art. Applicant therefore requests that the Examiner “provide documentary evidence in the next Office action if the rejection is to be maintained” as called for by MPEP 2144.03.

Claims 2-4, 11-14, 24, 38-41 and 45-47 stand rejected under U.S.C. 103(a) as being unpatentable over the Brankley et al. reference in view of Catron et al. One reason that dependent claims claims 2-4, 11-14, 38-41 and 45-47 are patentable is because they depend from independent claims shown to be patentable above. The only independent claim rejected under this ground for rejection is claim 24. The applicant respectfully disagrees with these rejections.

The Catron et al. reference requires “recognizing a fax traveling class mark at a destination office switching controller or processor or network control point processor” (col. 2, lines 24-27) and that “each such machine is ‘registered’ with the carriers serving the customer” (col. 3, lines 50-51). Thus, the Catron et al. reference relies on different system components and a different operating principle from that relied upon by the applicant’s invention. The applicant respectfully points out, that with applicants’ invention as it is recited in claim 24, any type of communications device can be reached by a caller’s dialing “a combination comprising a any one of said plurality of symbol headings plus said common telephone number” because claim 24 states that “said particular one of said plurality of symbol headings does not indicate to said means for routing that the specific communications device of the particular subscriber is a particular type of communications device.” With the applicant’s invention, a caller could dial a

# symbol plus a “common telephone number”, e.g., a particular subscriber’s common 7-digit telephone number, and would not necessarily reach a fax, as would be the case with the Catron et al. invention.

The Brankley et al. reference requires that the telecommunications system “recognize” and operate in a way that is consistent with a “prefix code” (i.e., an “added data set”) that is assigned to each type of message carried by the system. The Brankley et al. invention also requires the presence in the premises of each customer of “a customer premise (CPE) switch” that is “responsive only to said added data set” (Brankley et al. claim 1). In the invention claimed by the applicant, claims 10 and 15 contain the limitation “without determining the type of communications device to which the call is directed” and the other claims contain similar limitations because the applicant’s telecommunications system is unaware of the type of any specific communications device that is connected to the system. For example, a fax can be connected by the applicant’s system to a wireless link or a land line.

The Catron et al. reference requires that the telecommunications system be aware of and operate in a way that is consistent with a dialed prefix that is assigned to each facsimile machine that is connected to the system. In the invention claimed by the applicant, claims 10 and 15 contain the limitation “without determining the type of communications device to which the call is directed” and other claims contain similar limitations because the telecommunications system is unaware of the type of any specific communications device that is connected to the system. Connection of any particular type of communications device to a line dialed by entering a

symbol plus a telephone number is not guaranteed with the applicant's claimed invention because use of a line for any particular purpose by a customer is completely voluntary as indicated by the claim 1 limitation: "informing the customers of the telecommunications system that one of a plurality of unique sets of symbol headings is normally, but not always, associated with one type of communications device that is connectable to a telecommunications system" and the limitation "assigning one of a plurality of common 7-digit telephone numbers to each selected customer of the telecommunications system within each area code of each local area and granting said each selected customer having a specific communications device that is connected to the telecommunications system the exclusive right to optionally use a combination comprising any one of said unique sets of symbol headings plus said common 7-digit telephone number to identify the specific communications device other than a voice landline device to the other customers of the telecommunications system". The Catron et al. invention operates on a completely different principle that requires the step of "recognizing a special dialed prefix of the call indicating that the call is from a facsimile machine" (Catron et al. claim 1) and that the call is being made to another fax machine. The "prefixes" of the applicant's invention are not required to be used by customers to identify a particular type of communications device, although they are granted such a right. This voluntary nature of the applicant's invention renders it completely novel and nonobvious.

The inventions of the Brankley et al. reference and the Catron et al. reference rely on completely different operating principles from one another and from the applicant's invention. The combination proposed by an Examiner would change the principle of operation of the

primary reference or render the reference inoperable for its intended purpose, which is not allowed by MPEP 2143.01. Thus, there is no motivation to combine the references as suggested by the Examiner because such a combination of components or process steps would be inoperable. A critical aspect of the applicant's invention that the Examiner does not appear to understand is that applicant's invention it is not necessary for the telecommunications system to "identify the desired type of communication" so the Examiner's arguments that the prior art operates in such a way are irrelevant.

The inventions disclosed by Brankley et al. and Catron et al. references have a major flaw in that they allow a facsimile to be sent to the wrong subscriber under certain conditions. This flaw is not present in the applicant's invention because it relies on a different principle of operation. With the cited inventions, if a landline telephone number being used for identifying and routing a facsimile is disconnected for any reason whatsoever and thereby assigned as usual to another subscriber, an incorrect destination for the facsimile would be determined and the facsimile sent to the wrong subscriber. With the applicant's invention, the current landline telephone, even if it were disconnected, would still be assigned to the correct subscriber and the correct destination for the facsimile would simply be determined by adding the # symbol to the disconnected landline telephone number.

In summary, selected limitations of the applicant's claims are being ignored and then an argument is being made that applicant's invention (as it is erroneously described in a restatement of the claims) is obvious in view of the Brankley et al. and Catron et al. references and asserted



but undocumented knowledge in the art. For example, in rejecting independent claims 1, 10 and 15, the following words in those claims are being ignored: “normally, but not always, associated” and “to optionally use” and “without necessarily determining” or “without determining.” Thus, an important limitation of claim 1 is being restated as “connecting the call to the destination defined by the set of prefix characteristics” when the limitation was actually stated as follows: “connecting said call to the specific communications device that is the destination for said call without the need for the telecommunications system to determine the type of communications device to which the call is directed.” In rejecting independent claims 24, 35 and 42, the following words (or similar words) are being ignored: “said particular one of said plurality of symbol headings does not indicate to said routing apparatus that the specific communications device is a particular type of communications device.” These ignored (and other) limitations of the claims differentiate applicant’s invention from the references.

The “connecting” limitation of claim 1 has been amended for reasons other than patentability to express the limitation in a different way. The dictionary definition of the word “necessarily” means “of necessity.” The dictionary definition of the word “necessity” is “the quality or state of being necessary.” Therefore, the phrase “without necessarily determining” that was originally used in applicant’s independent claim 1, meant that it is not necessary that the “type of communications device to which the call is being directed” be determined by the telecommunications system that is processing the call, in accordance with the applicants’ invention. Such a determination by the telecommunication system is always necessary with prior art systems and methods. Applicants’ independent claims 10 and 15 specifically exclude such a

determination from being carried out by the telecommunications system or routing apparatus. Applicant's independent claims 24 and 35 are limited to the situation wherein "said particular one of said plurality of symbol headings (or said heading) does not indicate to said routing apparatus (or said means for routing) that the specific communications device (of the particular subscriber) is a particular type of communications device." Applicants' independent claim 42 is limited to the situation wherein "said symbol does not necessarily indicate" the particular type of communications device. Claim 42 is also limited to a system wherein "said specific communications device of the particular subscriber being reachable by the caller's dialing no other common 7-digit telephone number" as contrasted to prior art systems in which every specific communications device has a 7-digit telephone number at which it is reachable. These limitations alone are sufficient to differentiate applicant's invention from the technologies in the cited prior art, all of which rely on structures and process steps that require that the telecommunications system recognize that a particular call is being made to a particular type of communications device, for example, to a fax machine.

The applicant respectfully points out that the above arguments have been made in different ways during the overly lengthy prosecution of this case and are in the record of the parent application, are stated in the CIP application as filed, and are now being made for the third time in this amendment. For some unknown reason, allowance of this case is being delayed when it is clearly allowable. This delay is particularly unfortunate in this case because of the advanced age of the applicant.

New claims 48-58 recite the invention in different ways, but all of these claims contain limitations that render them patentable. Some of the limitations in these claims are inherently disclosed in the specification and drawings. Others are actively disclosed. With respect to claim 54, the applicant notes that his disclosure does not limit the number of digits in a “symbol heading.” Nor does it limit the number of parts in a telephone number. Quoting from the specification, an example of “2 or more digit sets of prefix characteristics” is disclosed in paragraph [0027] of the specification as filed. With respect to claim 57, the concept of “complements” of telephone numbers is disclosed in paragraph [0016] of the specification as filed and the lack of the invention’s having an effect on call processing in public switched telephone networks is disclosed in paragraph [0046] of the specification as filed.

The applicant respectfully requests that the application be allowed in a timely manner. If the Examiner wishes to discuss the case, a call to 808-885-4194 is encouraged. The time here is five hours earlier than the east coast this time of year.

A Credit Card payment form is enclosed.

While the correspondence address has not changed, the mailing address of the applicant (for printing on the front page of the patent) has changed to the following:

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The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required during the entire pendency of this application to Deposit Account No. 500593.

Respectfully submitted,

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